

**BOROUGH OF WESTWOOD
PUBLIC MEETING OF THE MAYOR & COUNCIL
FEBRUARY 15, 2011 MINUTES
MUNICIPAL COMPLEX
101 Washington Avenue
7:30 PM Executive Closed Session/8:00 pm Work Session**

1. Opening of the Meeting:

The meeting was called to order by Mayor Birkner at 7:30 pm. Mayor Birkner then read the Open Public Meetings Law Statement: "This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regular Borough Council meeting. Notices have been filed with our local official newspapers and posted on the municipal bulletin board."

2. Roll Call:

Mayor Birkner – Present
Councilmember Grefrath - Present
Councilmember Phayre - Present
Councilmember Quinn - Present
Councilmember Sciara - Present
Councilmember Waneck - Present
Council President Miller - Present
Borough Administrator Hoffmann – Present
Borough Attorney Huntington - Present
Borough Clerk Hughes - Present

Committee Assignments:

Finance, Administration & Capital Projects
Public Properties
Health & Recreation
Fire & Ambulance
Land Use
Police & OEM

3. Resolution #11 - 38A: Executive Closed Session

Motion: Council President Miller Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes
Councilmember Quinn - Yes
Councilmember Sciara – Yes
Councilmember Waneck - Yes
Council President Miller – Yes

4. Reopen the Meeting:

Motion to reopen the meeting: Councilmember Sciara Second: Council President Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 8:10 pm.

5. Roll Call II:

Mayor Birkner – Present
Councilmember Grefrath - Present
Councilmember Phayre - Present
Councilmember Quinn – Present
Councilmember Sciara - Present
Councilmember Waneck - Present
Council President Miller - Present
Borough Administrator Hoffmann – Present
Borough Attorney Huntington - Present
Borough Engineer Senkevich - Present
Borough Clerk Hughes – Present

6. Flag Salute

Council President Miller gave the invocation. Mayor Birkner led those present in the salute to the flag.

7. Approval of Minutes: Sine Die 2010, Reorganization 2011, January 18, 2011, January 25, 2011

Motion to adopt the minutes of the Sine Die 2010 meeting: Councilmember Grefrath

Second: Councilmember Phayre

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Motion to adopt the minutes of the 2011 Reorganization meeting: Councilmember

Grefrath Second: Council President Miller

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Motion to adopt the minutes of January 18, 2011: Councilmember Grefrath

Second: Councilmember Phayre

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Motion to adopt the minutes of January 25, 2011: Councilmember Grefrath

Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

Mayor Birkner advised that the matter of the Class I Special Officer is tabled until the next meeting.

8. Reports of Committees and Officials:

A) Mayor's Report

1) Community Youth Outreach

Mayor Birkner congratulated Green Bay Packers player B.J. Raji, a graduate of Westwood Regional High School, for the Super Bowl win. He contrasted that success with the tragedy an hour later when a Westwood resident engaged in gunfire and shot a Police Officer from Paramus. Officer Morgan's heroism cannot be understated. The resident died as a result of the gun fight. Mayor Birkner conveyed that the hearts and prayers of Westwood go out to the families affected. Officer Morgan is doing well, and progressing nicely. Her desire is to return to work as soon as she is able. Mayor Birkner conveyed the Borough's wishes for a speedy recovery.

Mayor Birkner advised that the Clergy Council is interested in promoting a community outreach youth forum, geared towards local youth in the area to let them know there are other ways out, that guns, drugs and violence are not the solution to personal crises.

2) 2011 NJDOT Project

Mayor Birkner announced that the Borough received a letter regarding the 2011 NJDOT grant for municipal aid, totaling \$150,000 for Roosevelt Avenue repairs.

3) HUMC

Regarding the reopening of the hospital, Mayor Birkner advised that the process is moving forward. There should be an answer from the State Dept of Health soon regarding the new Certificate of Need. Mayor Birkner thanked everyone who has written letters to Dr. Alaigh. Public support has been outstanding. Mayor Birkner vowed that the Governing Body will continue to work hard on the reopening of the hospital.

B) Engineer's Report

1) Bi-weekly Report

Dr. Boswell reviewed the bi-weekly report, a copy of which is attached.

2) Pascack Brook Sewer Pipe

Dr. Boswell reported that they are still waiting for power to the pump at the Pascack Brook sewer from PSE&G. Mayor Birkner asked how to expedite the matter. Dr. Boswell suggested a resolution emphasizing the urgency.

3) Westvale Park

Dr. Boswell advised that Westvale Park is practically complete. He reviewed the bill and change order that appear on the consent agenda for approval.

4) Design Fee Discussion

Council President Miller discussed the additional \$123,000 being requested by Boswell Engineering to cover the cost of supplemental design work done on Westvale Park. A review of the charges with Boswell representatives by a subcommittee confirmed that the billing was appropriate. Council President Miller stated that the bills arrived in February through May of 2010, but were not brought to the Governing Body's attention for four months. The Council will be voting on the payment as part of the consent agenda. Council President Miller apologized to Dr. Boswell for any inference of inappropriateness towards Boswell.

Mayor Birkner does not believe an apology is in order, it is simply diligence on the part of the Borough to review bills. He feels there is a question of when the bills did surface and is not sure Council President Miller's comments are accurate. Council President Miller believes the apology is owed. Councilmember Waneck agreed, saying Dr. Boswell was lambasted, and it was not appropriate. She apologized on behalf of herself and anyone else. Councilmember Quinn agreed, stating that she learned a few things at the subcommittee meeting. She thanked Dr. Boswell for his time that day and also apologized. Councilmember Grefrath apologized to Mr. Senkevich. Since Dr. Boswell was ill at that time, Mr. Senkevich was taking the shots.

Mr. Hoffmann stated that bills were received for additional design work for February, March and April in April, which was when they were reviewed and then held to match up with resolutions and other items. After that the Boswell staff was asked for help. That process started in May.

Council President Miller pointed out that the issue was that the Governing Body didn't know the bills were in the house. They thought money was available for the project, but it was running in the red because the bills were not brought to the Governing Body's attention until June 13th. Mr. Hoffmann stated it is the Borough's responsibility to do due diligence. Council President Miller interrupted to say the Borough is responsible to not sit on bills in that manner but must learn from it, and look at what can be done to make sure it doesn't happen again. Mr. Hoffmann noted that with the help of the engineers they have identified deficiencies in the process. Mayor Birkner asked what they were. Mr. Hoffmann said they received a better understanding of job numbers and bill components.

Mayor Birkner recalled that while there were questions about the design fee of \$123,000 that the Governing Body wanted to verify, there was no lambasting or inference of wrongdoing. The Governing Body wanted to be sure design fees were exactly what they were. Council President Miller said Mayor Birkner's recollection is different than his. He recalls the Governing Body taking a strong stance on the appropriateness of the bill. Council President Miller said he is questioning the Borough's ability to do it better, and admit we contributed to the confusion, own up to a mistake and correct it.

Councilmember Waneck remembered that during time when questions were asked about whether there were any other costs, the \$123,000 never came up. Mr. Hoffmann said with Boswell's help the Borough determined that the coding of well monitoring, other monitoring

and the bike path were incorrectly charged to the ordinance. He learned to better differentiate costs. Mayor Birkner said it is appreciated that it's now done. Mr. Hoffmann reiterated that it could not have been done without the Boswell staff.

C) Council Liaison & Committee Reports

1) Finance, Administration and Capital Projects:

a) Shade Tree Update

Councilmember Grefrath asked for suggestions on where to plant the white pine tree that was germinated on the space shuttle. It was agreed to suggest the Westvale A Field entrance to the Shade Tree Committee for their consideration.

b) Budget Update

Councilmember Grefrath reviewed the status of the budget process. State aid amounts will be announced after the Governor introduces the State budget on February 22. Westwood will introduce its budget on March 15. A special line-by-line budget meeting was discussed and set for March 2.

2) Police and OEM:

a) Police Reserves

Council President Miller announced that Police Reserves applications are available if anyone is interested. The Police Reserves are currently reviewing some applications that have been submitted. Councilmember Phayre suggested the Police Reserves, Fire Department and Ambulance Corps be included on the volunteer form.

3) Fire and Ambulance:

a) Fire Department Update

Councilmember Sciara thanked the Fire Department for the way they handled the electrical fire under Broadway on Saturday. They were professional and efficient.

b) Resolution #11 - 39: Westwood Volunteer Fire Dept. – Matters of Personnel

Councilmember Sciara noted that this resolution pertains to a Volunteer Fireman who was deployed to Afghanistan this month.

Motion to adopt Resolution #11-39: Councilmember Sciara

Second: Councilmember Quinn

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

4) Public Properties:

a) DPW Update

Councilmember Phayre reviewed the statistic on all the snowstorms that have occurred this winter.

b) Voucher Procedure

Councilmember Phayre asked Mr. Huntington to discuss the revised voucher procedure. Mr. Huntington explained that the Borough disburses public assistance State funds and donations. Historically all funds have been treated the same. The trouble is emergency aid monies which are paid out of private donation and special trust accounts have to be paid long before a Council meeting. Mr. Huntington said Councilmember Phayre correctly pointed out these vouchers are presented after the fact which puts him behind the eight ball. Because these are not public funds the vouchers do not have to be signed by the liaison, which is what the draft resolution explains for the auditor. Councilmember Phayre noted that while he is no longer a signatory he will still review the vouchers. The Governing Body added the resolution to the consent agenda.

5) Land Use:

a) Board Notifications

Councilmember Waneck noted there is still confusion on the proper way to notify various boards and departments on pending land use applications. Previously it was being forwarded by liaisons. The Construction Official suggested creating email addresses for each entity, which is being done. As board chairs change, there will still be the same email. This should help getting information to boards in a timely manner.

b) Environmental Committee Update

Councilmember Waneck reported that the Environmental Committee is moving forward with the water turbine but running into permitting issues. Many permits required. The board may need an engineer in order to submit some permits, so they are looking into grants to fund the engineering fees. The cost of permitting may outweigh the benefits of the turbine. The Environmental Committee is looking to move forward with the rain barrel project. They will have a table at Westwood Pride day, along with a Riverkeeper representative to demonstrate how to make a rain barrel. The Committee is still pursuing community gardens as a joint project with the high school.

c) Sustainability Update

Councilmember Waneck reviewed the sustainability memo. She is working on a utility bill analysis. On the bill list is PSE&G and Hess Corp for street lighting, which seems to be duplicates. Mr. Hoffmann is working to ensure no duplicates. Therms and kilowatt hour

costs are correct. Councilmember Waneck asked for comments or corrections on the memo. This will be updated quarterly. The direct install is completed at the DPW and Library. They are now working in Borough hall. The Firehouse is also done. Council President Miller thinks it's great to start tracking usage. He asked at what levels there will be a return of investment. Councilmember Waneck said the energy audit addresses that. For the next work session she will get back to him. Mayor Birkner said projected savings are \$54,000 per year. Council President Miller wants to be sure. He wants to track the savings on the web page. Councilmember Waneck suggested the numbers at the end of the second quarter would be more accurate. Mr. Hoffmann pointed out that buildings are grouped in the spreadsheet to make it easy to determine savings.

6) Health and Recreation:

a) Health Department Update

Councilmember Quinn reiterated the Borough's thanks for a good job by all at the power outage. The Board of Health responded quickly to reinspect the restaurants affected and get them reopened.

The anti-rabies clinic in January was the largest clinic ever. Hours were extended to accommodate the 318 animals vaccinated. Councilmember Quinn noted there were quite a few people from other municipalities because many clinics have been cancelled due to the snow. The State provided the vaccines so the Borough is required to vaccinate non-resident animals. Councilmember Waneck pointed out that the dog run permits vaccinated dogs only.

b) Geese Control

Councilmember Quinn reported that she and Councilmember Phayre have been fact finding on geese control in the Borough parks and on the playing fields. This has been an ongoing situation since creation. They are recommending three department heads come up with a multi level approach. There are many options, including solar, all with different costs and success rates. A meeting is scheduled for next week. It will take more than one person to put together an action plan. Councilmember Quinn is excited and pleased at those willing to step up to the plate, both residents and department heads.

Councilmember Phayre added his thanks to Rick Woods, Sharon Blehl and Gary Buchheister. Each will take ownership of individual portions of the project. Mayor Birkner said a multi level approach is smart. He will also have dialogue with the Board of Education. There should be more information available by the work session.

Councilmember Quinn noted that the health hazard of geese droppings is minimal, and the best defense is washing hands after playing on the fields.

D) Attorney's Report

No report.

E) Administrator's / Clerk's Report

1) Proposed JIF Resolutions

Mr. Hoffmann reviewed the Joint Insurance resolutions on the consent agenda. Mr. Huntington explained this is part of a statewide effort to get the legislature to look at these laws. Council President Miller asked if it makes sense to have an opinion on boardwalks. Mr. Huntington said the Borough can be sympathetic for those who do, and support them. There are 389 communities insured by JIFs, and it is expected all or a vast majority will be doing these resolutions as a set.

Councilmember Waneck asked for clarification regarding easements and sidewalk injuries. Mr. Huntington explained that homeowners do not benefit from pedestrian traffic like businesses. Commercial establishments are responsible for the sidewalk that abuts their frontage. It is questionable where the sidewalk ends and curb starts. His first reaction is that it's the abutting store and/or property owner's responsible. Councilmember Waneck concluded that the resolution affects homeowners. Mr. Huntington said it targets a specific decision in courts that unnecessarily burdens municipalities.

2) 2011 Road Paving Program Ordinance

Mr. Hoffmann advised that the 2011 road paving program will be discussed at the March work session. The goal is to award a contract on April 19, so Westwood needs to introduce an ordinance at the March 15 meeting.

3) Grants

Mr. Hoffmann noted that an added resolution on the consent agenda is for a Community Development Block Grant for \$6000 for senior citizen activities. The grant review will be held Thursday night.

The Borough may be eligible for up to \$50,000 additional funding for energy improvements. There is money is leftover in the program for mechanical equipment.

Councilmember Waneck asked about the bikeway grant opportunity she forwarded to Mr. Hoffmann. Mr. Hoffmann has taken a preliminary look. Mayor Birkner said the Planning Board will be looking into that in the Master Plan review. Councilmember Waneck asked for feedback for the work session.

4) Regional Waterways Task Force

Councilmember Waneck asked where the permit process stands for the regional waterways. Mr. Hoffmann will inquire of the Emerson Administrator, who is leading the effort.

5) Bird Sanctuary

Councilmember Waneck asked the status of bird sanctuary. Mr. Huntington said it is still pending.

9. Agenda/Public Forum:

Motion to open the Agenda/Public Forum: Councilmember Phayre

Second: Councilmember Sciara

Voice Vote: A voice vote was taken with all present voting in the Affirmative.

No one wished to be heard.

Motion to close the Agenda/Public Forum: Councilmember Phayre

Second: Councilmember Quinn

Voice Vote: A voice vote was taken with all present voting in the affirmative.

10. Presentation of Bills, Financial Reports and Resolutions:

Mayor Birkner advised that the following Resolutions would be enacted in one motion. Councilmembers who wished to remove any Resolution(s) to be voted upon separately, had the opportunity to do so at this time, and said Resolutions would be considered separately. Resolutions v, w, x and y were added. Councilmember Quinn asked for resolution b to be voted on separately.

Resolutions as Consent Agenda:

- a) **Resolution #11 - 40: Bill List & Statement of Cash**
- c) **Resolution #11 - 41: Mobile Food Vendor License 2011**
- d) **Resolution #11 - 42: Authorizing Payment of Voucher to Let It Grow for Westvale Park Project**
- e) **Resolution #11 - 43: Westvale Park Change Order #3**
- f) **Resolution #11 - 44: Authorizing Master Plan Reexamination Report**
- g) **Resolution #11 - 45: Bid for Installation of Playground at Westvale Park**
- h) **Resolution #11 - 46: Authorizing Refund of Taxes – Block 2110 Lot 1**
- i) **Resolution #11 - 47: Authorizing Refund of Taxes – Block 1506 Lot 9**
- j) **Resolution #11 - 48: Authorizing Additional Payment for Preliminary Site Assessment Waiver Application**
- k) **Resolution #11 - 49: Authorizing Interlocal Services Agreement for TV Inspection**
- l) **Resolution #11 - 50: Use of Veterans Park for Westwood Heritage Society – Westwood Pride Day**
- m) **Resolution #11 - 51: Use of Veterans Park for Westwood Heritage Society – Antiques in the Park**
- n) **Resolution #11 - 52: Approval of Zion Lutheran School Application to Consume Alcoholic Beverages on Public Property**
- o) **Resolution #11 - 53: Use of Veteran's Park for Thomas J. Riley Senior Center**

- p) Resolution #11 - 54: Approval of Berkeley School PSO Application to Consume Alcoholic Beverages on Public Property**
- q) Resolution #11 - 55: Supporting A3431 to Amend Title 59 by Granting Immunity to Public Entities for Sidewalk Injuries Where the Homeowner is Responsible for Sidewalk Maintenance by Ordinance**
- r) Resolution #11 - 56: Supporting A-3430 to Amend Title 59 by Strengthening Weather Immunity**
- s) Resolution #11 - 57: Supporting a Repeal of Sick Leave Injury**
- t) Resolution #11 - 58: Supporting S-2404 Capping Attorney Fees in Litigation Against Public Entities**
- u) Resolution #11 - 59: Supporting S-2333 and A-3432 to Amend Title 59 to Provide Immunities for Beaches, Boardwalks and Similar Property**
- v) Resolution #11 - 60: Endorsement of Community Development Projects - Westwood Senior Citizen Program 2011-2012**
- w) Resolution #11 - 61: Requesting PSE&G Expedite the Completion of Work at 425 Kinderkamack Road Relating to the Pascack Brook Sewer Main**
- x) Resolution #11 - 62: Revising Standard Operating Procedures Regarding Vouchers**
- y) Resolution #11 - 63: Authorizing Payment for Additional Design Work on Westvale Park**

Motion to adopt resolutions #11-40 through #11-63: Councilmember Grefrath

Second: Councilmember Waneck

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn - Yes

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

b) Resolution #11 - 64: CDL Agreement 2011

Councilmember Quinn recused herself from acting on this resolution.

Motion to adopt resolution #11-64: Councilmember Grefrath

Second: Council President Miller

Roll Call: Councilmember Grefrath - Yes

Councilmember Phayre - Yes

Councilmember Quinn – Recused

Councilmember Sciara - Yes

Councilmember Waneck - Yes

Council President Miller – Yes

11. Adjournment:

Motion to adjourn: Councilmember Sciara Second: Councilmember Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 9:36 pm.

Attest:

(signed) Karen Hughes

Karen Hughes, RMC, Borough Clerk

Proofed by: Denise Holmes, Deputy Clerk